

REMARKS

Claims 1-92 are pending..

I. Restriction Requirement and Applicant's Provisional Election

The Examiner requires restriction, under 35 U.S.C. § 121, to one of the following groups of inventions:

Group I: Claims 1-73, drawn to a peptide, classified in class 530, subclass 350,

Group II: Claims 74-76 and 78, drawn to a pharmaceutical composition, classified in class 530, subclass 300,

Group III: Claim 77, drawn to a method of regulating collagen, classified in class 435, subclass 7.1,

Group IV: Claims 79-82, drawn to a method of identifying a peptide mimetic, classified in class 514, subclass 12, (Applicants note a typo in the Examiner's description of Group IV relating to claims "90-82." Applicant's believe the Examiner intended to indicate claims 79-82.)

Group V: Claims 83-88 and 90, drawn to a an antibody, classified in class 530, subclass 387.1,

Group VI: Claims 89, drawn to a method of diagnosing a disease, classified in class 435, subclass 6+, or

Group VII: Claims 91-92, drawn to a method of inhibiting chondrocyte, classified in class 435, subclass 7.95,

The Examiner further believes the groups are generic to a plurality of distinct inventions and requires election of a single peptide, mimetic, inhibitor, or antibody. Office Action, page 2.

In response, Applicant hereby elects, **with traverse**, Group I, and the CB12-II (SEQ ID No: 3) peptide for examination.

II. The Search of Peptides in Group I Is Not Unduly Burdensome

Applicant also traverses the restriction requirement on the grounds that the search and examination of the recited peptides relating to altering the rate of degradation of Type II

collagen or the rate of hypertrophy is not unduly burdensome. According to MPEP section 803 "if a search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent and distinct inventions." As all of the peptides comprise portions of type II collagen, Applicant respectfully suggests examination of all the peptides in Group I, namely SEQ ID Nos: 2-9 and 11, can be made without serious burden.

In addition, the Applicant notes that a search of CB12-II (SEQ ID No: 3) and the hydroxylated versions of this peptide with an additional glycine at the N-terminus (SEQ ID Nos: 6-9) comprise essentially identical searches and would certainly not constitute an undue burden on the patent office. As Applicant has elected, with traverse, Group I, SEQ ID No: 3, Applicant believes that a search of SEQ ID NOS: 3 and 6-9 does not constitute an undue burden. Therefore, if the Examiner will not withdraw his restriction requirement and allow examination of the entire Group I, the Examiner is requested to consider claims 1-73 with respect to SEQ ID Nos: 3 and 6-9.

III. Conclusion

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 19-0741. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should be charged to our Deposit Account.

Respectfully submitted,

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